

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LOUISE SHINN VEVE  
ELIZABETH V. GROGAN  
CARMEN V. COKER

Claim No. CU -1511

Claim No. CU-1512

Decision No. CU- 6179

Under the International Claims Settlement  
Act of 1949. as amended

PROPOSED DECISION

These claims against the Government of Cuba under Title V of the International Claims Settlement Act of 1949, as amended, in the revised amount of \$150,940.04 were presented by Jose C. Veve and LOUISE SHINN VEVE, husband and wife, based upon the asserted loss of real and personal property in Cuba. Claimant Jose C. Veve was a national of the United States by virtue of Section 5 of the Act of Congress of March 2, 1917, which conferred United States citizenship to Puerto Rico citizens. LOUISE SHINN VEVE has been a national of the United States since her birth in Franklin, Ohio.

The Commission has been informed that Jose C. Veve died in Miami, Florida, on April 17, 1970 leaving an instrument purported to be his last will; that this instrument was never probated; and that his estate was not administered by any court. Evidence has been submitted which shows that Jose C. Veve left surviving as next of kin his widow LOUISE SHINN VEVE, and his two daughters: ELIZABETH V. GROGAN and CARMEN V. COKER.

In view of the foregoing, the Commission has substituted as claimants in lieu of Jose C. Veve, deceased, LOUISE SHINN VEVE, ELIZABETH V. GROGAN and CARMEN V. COKER.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance

with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants state that Jose C. Veve and LOUISE SHINN VEVE jointly owned the following property which was taken by the Government of Cuba:

(1) 800 sq. meters of land with a four-bedroom family house erected thereon, in the Alturas de Miramar section of Havana - Marianao, valued	\$ 45,000.00
(2) Furniture, household goods and personal effects	8,493.61
(3) Cuban Electric Company bonds	3,000.00
(4) Havana Biltmore Yacht and Country Club stock	250.00
(5) Bank account	2,396.43
(6) Reimbursement to Banco Nacional de Cuba claim	1,800.00
(7) Insurance policy	18,000.00
(8) Pension claim	72,000.00
Total	<u>\$150,940.04</u>

Claimants have submitted substantial evidence in support of their claims. This evidence, as well as other aspects of the various elements of the claims will be discussed under separate headings below.

#### Real Property

The record before the Commission shows that Jose C. Veve and LOUISE SHINN VEVE were the joint owners of a building lot of 800 square meters with a 4-bedroom family house erected thereon, situated at No. 1407 41st Avenue, between 14th and 18th Street, in the section known as Alturas of Miramar (Miramar Heights), Municipality of Marianao, a suburb of Havana.

On December 6, 1961, the Cuban Government published Law No. 989 which effectively confiscated all assets, real estate, personal property, rights, shares, stock, bonds and securities of persons who left Cuba.

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The record shows that Jose C. Veve and LOUISE SHINN VEVE left Cuba for the United States on December 5, 1967, and the Commission finds that the above real property of the spouses Veve was taken by the Government of Cuba on December 5, 1967.

Although a portion of this claim arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Lopez Morales, Claim No. CU-8739.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights and interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The record includes the original deeds for the real property which show that in 1925 and 1926 the land at No. 1407 41st Avenue measuring 800 square meters was acquired by the Veves for a price of \$14,462.24. Subsequently, a four-bedroom family house with a garage was constructed on the lot and the records disclose that the construction costs amounted to \$24,000.00 and the total cost of the real property was thus \$38,462.24.

The Commission is aware that prices of land in the Miramar and Alturas de Miramar sections of Havana were considerably higher in 1967 than in 1926. The Commission therefore finds that in 1967 the value of the land was \$21,000 and that the depreciation of the family house was approximately equal

to the appreciation for the period 1926 - 1967, leaving the value unchanged in the amount of \$24,000.00 so that at the time of taking the value of the property was \$45,000.00. Thus Jose C. Veve and LOUISE SHINN VEVE suffered a loss each in the amount of \$22,500.00

As stated above, Jose C. Veve died on April 17, 1970 a resident of the State of Florida. The Commission is informed that the deceased left an instrument purported to be his last will, but since that instrument has not been probated, the Commission considers that his claim herein descended under the laws of intestacy of the State of Florida. Under these laws the widow of the deceased and each of his children inherited an equal share of his estate and each of them is entitled to certification of a one-third of the loss sustained by Jose C. Veve during his lifetime.

Furniture, household goods and personal effects

Prior to leaving Cuba the spouses Veve listed all their furniture, household goods and personal effects and stated before a Notary Public of Havana, that their jointly-owned personal property in the house at No. 1407 41st Avenue, Alturas de Miramar, had a value of \$8,796.00. An examination of the list of this property shows that this property, also taken on December 5, 1967, had such value and the Commission finds that Jose C. Veve and LOUISE SHINN VEVE each suffered a loss of \$4,398.00.

Cuban Electric Company bonds

The evidence before the Commission discloses that the spouses Veve owned jointly: \$2,500 5% First Mortgage Bonds of the Cuban Electric Company, Series C, due 1980, and \$500.00 5% First Mortgage Bonds of the Cuban Electric Company, Series D, due 1987. These bonds were secured by the property in Cuba of the Cuban Electric Company, a Florida corporation, whose property was nationalized on August 6, 1960 by Resloution No. 1 pursuant to Cuban Law 851 (see Claim of Ebasco Industries Inc., Claim No. CU-3548, 1969 FCSC Ann. Rep. 66). The aforesaid bonds therefore represent a debt which was a charge upon nationalized property as defined in Section 502(3) of the Act. The Commission concludes that Jose C. Veve and LOUISE SHINN VEVE suffered a loss, as a result of the nationalization of the Cuban Electric

Company, each in the amount of \$1,500.00.

Havana Biltmore Yacht and Country Club

The record shows that Jose C. Veve and LOUISE SHINN VEVE were the joint owners of a share of stock, Series B, of the Havana Biltmore Yacht and Country Club.

The Commission has found that the Havana Biltmore Yacht and Country Club was intervened on March 19, 1960 (see Claim of Arman E. Becker, Jr., Claim No. CU-1094).

Series B stockholders merely owned a membership interest in the Country Club with the right to use the Club's facilities, but owned no interest in the Club's physical assets. The Commission has found that a membership interest should be measured by the cost of investment or membership. Accordingly, the Commission finds that the value of the Veve's interest at the time of taking, was \$250.00.

Bank account and reimbursement to Banco  
Nacional de Cuba

Claimants state that Jose C. Veve and LOUISE SHINN VEVE were the joint owners of a savings account No. 13122 with the Banco Nacional de Cuba. The funds of this account were blocked since 1961, but in order to pay for certain repairs of their house, on October 6, 1965 the spouses Veve were permitted to withdraw \$1,800.00, leaving in the savings account a balance of \$2,396.43.

In 1967, prior to their departure from Cuba, the Veves were requested to reimburse to the bank the amount of \$1,800.00, and having no choice, they paid this amount to the Banco Nacional de Cuba, thus increasing the balance of their credit with the bank to \$4,196.43.

The Commission finds that this sum was taken by the Government of Cuba on December 5, 1967 pursuant to Law 989.

Insurance Policy

Claimants state that Jose C. Veve was insured through the Cuban Electric Company, his employer, under a collective life insurance policy with the Confederation Life Association of Canada in the amount of \$18,000.00

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and that LOUISE SHINN VEVE was declared the beneficiary under that life insurance policy. Claimants further state that as the result of actions of the Government of Cuba, this policy represents a total loss.

In support of the claims, the claimants submitted the original life insurance policy No. 43249 of January 6, 1956, issued under the Collective Policy No. C-3027. An examination of the life insurance policy No. 43249 reveals that it was in effect while the insured person was employed by the Cuban Electric Company. After termination of the employment, the insured person was entitled to request from the insurance company an extension of the terms of the insurance, but only if the insured person paid the premiums established by the insurance company. Such extension had to be requested within 31 days from the date of the termination of employment. The record shows that Jose C. Veve retired as an employee of the Cuban Electric Company in 1960, when this company was listed as nationalized by the Government of Cuba. Nothing in the record indicates that Jose C. Veve requested an extension of the life insurance policy, that such extension was granted; and that he paid the premiums established by the insurance company; or that any contractual rights acquired by Jose C. Veve through the insurance policy were taken by the Government of Cuba or invalidated while the policy was still in effect.

Under these circumstances, the Commission finds that claimants failed to establish a claim under Title V of the Act for the loss of the proceeds of the insurance policy and this portion of the claims is accordingly denied.

#### Pension

Claimants contend that Jose C. Veve, received from the Cuban Government a pension of \$400.00 per month, but payment was stopped when the Vevés left Cuba. Although claimants have not been able to document this item of the claim fully, the evidence of record and evidence available in other pension claims before it sufficiently establish that Jose C. Veve was entitled to a pension of \$400.00 a month as a retired employee of the Cuban Electric Company (see Claim of A. M. Joy de Pardo, Claim No. CU-1906, 1969 FCSC Ann. Rep. 71; and Claim of Lawrence A. Soper, Jr. et ux, Claim No. CU-0054).

On May 29, 1959, Law No. 351 was enacted which provided for the establishment of the Banco de Seguros Sociales de Cuba (Social Insurance Bank of Cuba), an agency of the Government of Cuba to supervise and administer social insurance, as well as to direct the policy concerning all social security matters. The law also provided for the transfer of the assets and liabilities of all pension funds to the Banco de Seguros Sociales de Cuba.

Information available to the Commission shows that retired employees after departure from Cuba received no further pension benefits. The Commission holds that the refusal of the Government of Cuba to continue to pay retirement benefits after the departure of Jose C. Veve from Cuba constituted a taking of property within the meaning of Title V of the Act. It remains to be ascertained what was the value of the annuities as of December 5, 1967, the date of taking, when Jose C. Veve was 77 years of age.

The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-1941, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031.7.) According to that method of valuation, the value of the annuity for a person of the age of 77 years amounts to 5.6201 times the yearly sum of the annuity. Therefore the value of the discounted annuity on the date of taking amounted to \$4,800.00 (the peso being considered on a par with the United States dollar) times 5.6201, or \$26,976.48, and the Commission finds that Jose C. Veve and LOUISE SHINN VEVE each suffered a loss of \$13,488.24 on December 5, 1967.

Summary

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>LOUISE SHINN VEVE</u>		
Real property	December 5, 1967	\$30,000.00
Furniture and household goods	December 5, 1967	5,864.00
Cuban Electric Co. bonds	August 6, 1960	2,000.00
Havana Biltmore Yacht and C.C.	March 19, 1960	166.66
Bank account and reimbursement	December 5, 1967	2,797.62
Pension	December 5, 1967	<u>17,984.32</u>
		\$58,812.60

<u>ELIZABETH V. GROGAN</u>		
Real property	December 5, 1967	\$ 7,500.00
Furniture and household goods	December 5, 1967	1,466.00
Cuban Electric Co. bonds	August 6, 1960	500.00
Havana Biltmore Yacht and C.C.	March 19, 1960	41.67
Bank account and reimbursement	December 5, 1967	699.40
Pension	December 5, 1967	<u>4,496.08</u>
		\$14,703.15

<u>CARMEN V. COKER</u>		
Real property	December 5, 1967	\$ 7,500.00
Furniture and household goods	December 5, 1967	1,466.00
Cuban Electric Co. bonds	August 6, 1960	500.00
Havana Biltmore Yacht and C.C.	March 19, 1960	41.67
Bank account and reimbursement	December 5, 1967	699.40
Pension	December 5, 1967	<u>4,496.08</u>
		\$14,703.15

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered, as follows:

<u>FROM</u>	<u>ON</u>
	<u>LOUISE SHINN VEVE</u>
March 19, 1960	\$ 166.66
August 6, 1960	2,000.00
December 5, 1967	56,645.94
	<u>ELIZABETH V. GROGAN</u>
March 19, 1960	\$ 41.67
August 6, 1960	500.00
December 5, 1967	14,161.48
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CARMEN V. COKER

March 19, 1960	\$ 41.67
August 6, 1960	500.00
December 5, 1967	14,161.48

CERTIFICATIONS OF LOSS

The Commission certifies that LOUISE SHINN VEVE sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-Eight Thousand Eight Hundred Twelve Dollars and Sixty Cents (\$58,812.60) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

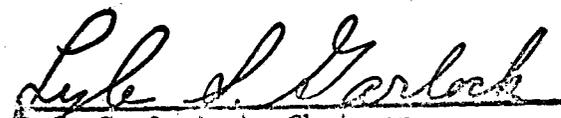
The Commission certifies that ELIZABETH V. GROGAN sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fourteen Thousand Seven Hundred Three Dollars and Fifteen Cents (\$14,703.15) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

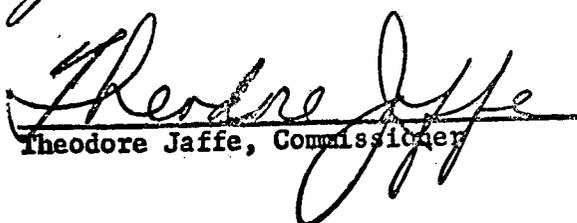
The Commission certifies that CARMEN V. COKER sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended,

in the amount of Fourteen Thousand Seven Hundred Three Dollars and Fifteen Cents (\$14,703.15) with interest at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

MAY 5 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 931.5(e) and (g), as amended, (1970).)

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